

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6446**

**BILL NUMBER:** HB 1117

**NOTE PREPARED:** Feb 19, 2008

**BILL AMENDED:** Feb 14, 2008

**SUBJECT:** Coal Gasification and Substitute Natural Gas.

**FIRST AUTHOR:** Rep. Stilwell

**FIRST SPONSOR:** Sen. Hershman

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Coal Gasification Technology Investment Tax Credit:* This bill provides that a taxpayer awarded a coal gasification technology investment tax credit may agree to use less than 100% Indiana coal in the qualifying coal gasification project and qualify for the credit if the taxpayer: (1) wishes to assign the tax credit; and (2) certifies to the Indiana Economic Development Corporation (IEDC) that partial use of other coal is necessary to result in lower rates for Indiana retail utility customers.

*Substitute Natural Gas:* The bill changes the definition of "substitute natural gas" to include gas: (1) produced by a facility outside Indiana; and (2) converted from coal from a location other than the Illinois basin. It also changes the definition of a "customer choice program" to include customers located in the service area of an electric utility and provides that when substitute natural gas (SNG) purchase obligations are proportionally assigned due to a customer choice program, the assignee must meet the assignment requirements in the previously approved contract for purchase of the SNG.

*Clean Coal Technology Definition:* This bill amends the definition of "clean coal technology" in various statutes. The bill defines the term as a technology used at an electric or steam generating facility to reduce or avoid specified airborne emissions that are regulated, or found by the Utility Regulatory Commission (IURC) to be reasonably certain to be regulated, by the federal government, the state, or a political subdivision of the state. The bill allows an existing electric generating facility to petition the IURC for approval of an airborne emissions project. The bill also requires the IURC to: (1) approve the project if the IURC finds, after notice and hearing, the project to be reasonable and necessary; and (2) provide certain financial incentives for the project. This bill requires the IURC to provide certain financial incentives to electricity suppliers for implementing electric line facilities projects.

*Advanced and Renewable Energy Resources:* The bill also requires certain electricity suppliers to supply specified percentages of their total electricity supply from advanced energy resources or renewable energy resources by specified dates. The bill establishes the Advanced and Renewable Energy Resources Fund. The bill requires an electricity supplier that fails to supply electricity from advanced or renewable energy resources to pay a penalty. The bill provides that the penalties are deposited in the Fund.

**Effective Date:** January 1, 2008 (retroactive); January 1, 2009.

**Explanation of State Expenditures:** (Revised) *Department of State Revenue (DOR):* The DOR would incur some administrative expenses relating to the revision of tax forms and instructions to incorporate changes relating to coal gasification technology investment tax credit. The DOR's current level of resources should be sufficient to implement these changes.

*IURC:* This bill will cause an increase in administrative costs for the Indiana Utility Regulator Commission. The IURC will have to amend all rules and guidelines associated with certificates, incentives, and rate adjustment hearings for clean coal technology and airborne emissions projects. The bill amends the definition of "clean coal technology" in various statutes relating to cost recovery, depreciation, and rate adjustments by utilities that implement that technology. The bill also allows certain entities to petition the IURC for approval of airborne emissions projects. The bill provides for financial incentives if these projects are approved.

*State and Local Government Utility Rates:* This bill could also increase expenditures by state and local governments for utilities. It is estimated that the amendment to the definition of clean coal technology could increase utility rates. The overall impact on utility rates is indeterminable. It is estimated that the amendment to the definition of clean coal technology will increase the number of utilities that are eligible for the incentives provided for implementing that type of technology, and therefore allow more utilities to adjust rates and recover costs for such technology. It is also estimated that allowing financial incentives for airborne emissions projects could cause an increase in utility rates.

*Renewable Energy Development:* The IURC will also have an increase in expenditures from being required to implement the advanced and renewable energy resource requirements in this bill. The increase in IURC expenditures will predominantly be due to the public hearings required for the IURC to make a determination that electricity supplier is exempt from fulfilling the supplier's advanced or renewable energy resource requirements. An electricity supplier may be exempted from the requirements by proving the energy resources required were not available or that the use of these resources would cause an unreasonable rate increase to the retail customers of the electricity supplier.

The bill provides that if there is sufficient money in the Advanced and Renewable Energy Resources Fund (ARERF) the IEDC shall, in consultation with the IURC, develop a strategy to attract renewable energy manufacturing facilities, including wind turbine component manufacturers, to Indiana. The increase in expenditures to the IEDC from this provision will be totally offset by the required reimbursement from the ARERF. The ARERF is made up of penalties deposited by electricity suppliers that do not meet the renewable energy resource requirements set forth in the bill.

**Background on IURC Funding:** The operating budget of the IURC is funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the agency's budget, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated

utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.15% of their gross intra-state operating revenues to fund the IURC.

**Explanation of State Revenues:** (Revised) *Coal Gasification Technology Investment Credit:* The bill allows a taxpayer to obtain the coal gasification technology investment tax credit while using less than 100% Indiana coal if: (1) the taxpayer wants to assign the tax credit pursuant to current statute; and the taxpayer certifies to the IEDC that partial use of other coal is necessary to result in lower rates for Indiana utility customers. Any fiscal impact that might arise due to these changes could begin in FY 2009 or FY 2010.

The coal gasification technology investment tax credit may be taken against a taxpayer's tax liability arising under the Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, Insurance Premiums Tax, and Utility Receipts Tax. The tax credit is for qualified investment in an integrated coal gasification power plant which converts coal to synthesis gas and uses the synthesis gas to generate electric energy. The credit is equal to 10% of the first \$500 M in qualified investment, and 5% of the qualified investment exceeding \$500 M. Current statute also provides for a separate and lesser tax credit for qualified investment in fluidized bed combustion technology. This credit would be equal to 7% of the first \$500 M in qualified investment, and 3% of the qualified investment exceeding \$500 M. A taxpayer may take the credit in 10 annual installments beginning with the year in which the taxpayer places the integrated coal gasification power plant or fluidized bed combustion unit into service. The annual credit installment that a taxpayer may claim is equal to the lesser of the percentage of the coal utilized during the taxable year in the facility that is Indiana coal multiplied by: (1) 10% of the total credit amount; or (2) the greater of (a) 25% of the taxpayer's total state tax liability for the taxable year or (b) the taxpayer's Utility Receipts Tax liability for the taxable year. A taxpayer is also allowed to assign part or all of the tax credit to an electric utility that has entered a contract to purchase electricity or substitute natural gas from the taxpayer.

*Substitute Natural Gas:* The bill eliminates the requirements that facilities generating substitute natural gas and applying to the IURC for a rate adjustment to recover costs must be located in Indiana and must use Illinois Basin coal. This would expand the number of facilities that may seek rate adjustments for cost recovery and financial incentives from the IURC currently provided by statute to clean coal and energy projects, construction or repower of a new energy generating facility, and development of alternative and renewable energy resources.

To the extent that these changes increase utility rates, there could be an increase Utility Receipts Tax (URT), Utility Services Use Tax (USUT), and Sales Tax collections. The amount of any increase is indeterminable and will ultimately depend upon rate adjustments allowed by the IURC for cost recovery.

*Renewable Energy Development:* The bill requires electricity suppliers that do not meet the advanced and renewable energy resource requirements in the bill to pay a penalty equal to the number of megawatt hours of advanced or renewable energy that the electricity supplier was required but failed to supply multiplied by \$20. The penalties are required to be deposited in the ARERF. The amount of penalties that may be collected is indeterminable. The amount of the penalty collections will depend on the number of electricity suppliers: (1) that fail to meet the bill's requirements; and (2) that were not exempted from the requirements by proving the energy resources required were not available or that the use of these resources would cause an unreasonable rate increase to the retail customers of the electricity supplier. The IURC would be required conduct public hearings on the application of these exemptions from the advanced and renewable energy requirements in the bill.

*Utility Rate Increases:* To the extent that any of the provisions of this bill increase utility rates, there could

be an increase Utility Receipts Tax (URT), Utility Services Use Tax (USUT), and Sales Tax collections. The amount of any increase is indeterminable and will ultimately depend upon rate adjustments allowed by the IURC for cost recovery for new clean coal technology projects or airborne emissions projects.

**Background:** The rate for both the URT and USUT is 1.4%. The URT is calculated on the gross receipts of all entities providing the retail sale of utility services in Indiana. The USUT is imposed on the retail consumption of utility services in Indiana. Both the URT and USUT are deposited in the state General Fund. Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.067%), the Public Mass Transportation Fund (0.76%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

**Explanation of Local Expenditures:** (Revised) See *State and Local Government Utility Rates* section above.

**Explanation of Local Revenues:**

**State Agencies Affected:** IURC, All.

**Local Agencies Affected:** All.

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